

ESTATE OF GILBERT YELLOWWOLF : Order Affirming Decision  
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: Docket No. IBIA 00-64  
:  
: March 19, 2001

Appellant Kathleen Sam seeks review of a February 29, 2000, order denying rehearing entered in the estate of Decedent Gilbert Yellowwolf by Administrative Law Judge Harvey C. Sweitzer. For the reason discussed below, the Board of Indian Appeals (Board) affirms that decision.

Decedent died intestate on October 15, 1995. Judge Sweitzer held a hearing to probate Decedent's trust estate on April 16, 1998. By order dated February 26, 1999, the Judge determined that Decedent's heirs were his wife, Margaret Lundy, and his father, Lester Yellowwolf.

Appellant, who is identified as Decedent's sister, sought rehearing in order to contest the determination that Lester Yellowwolf was Decedent's father. Judge Sweitzer denied rehearing in the February 29, 2000, order at issue here. He stated at page 1 of that order: "[Appellant] is not a presumptive or actual heir or beneficiary to this estate and as such she does not have standing to petition [for rehearing]."

In her notice of appeal, Appellant contends that she has standing under 43 C.F.R. § 4.241. Section 4.241, which deals with rehearings, provides in pertinent part that "[a]ny person aggrieved by the decision of the administrative law judge" may petition for rehearing. Appellant did not file a brief in this matter and so did not elaborate further on her contention.

The Board has, on numerous occasions, discussed standing to seek rehearing or reopening in probate cases. It has consistently held that, in order to have standing, a person must be a "party in interest" within the meaning of 43 C.F.R. § 4.201(i). See, e.g., Estate of Frank Nelson Buffalomeat, 34 IBIA 120, 121 (1999), and cases cited there. Subsection 4.201(i) defines "party in interest" to mean "any presumptive or actual heir, any beneficiary under a will, any party asserting a claim against a deceased Indian's estate, and any Tribe having a statutory option to purchase interests of a decedent." Appellant does not contend that she meets this definition.

Because Appellant has not shown that she is a “party in interest,” the Board concludes that Judge Sweitzer properly denied Appellant’s petition for rehearing on the grounds that she lacked standing.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, Judge Sweitzer’s February 29, 2000, order denying rehearing is affirmed.

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Kathryn A. Lynn  
Chief Administrative Judge

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Anita Vogt  
Administrative Judge